

ORIGINAL

BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C.

In re Applications of

TRINITY BROADCASTING OF FLORIDA,  
INC.For Renewal of License of  
Station WHFT(TV) on Channel 45,  
Miami, Florida

and

GLENDALE BROADCASTING COMPANY

For a Construction Permit for a  
New Commercial TV Station to  
operate on Channel 45, Miami,  
FloridaTo: Honorable Joseph Chachkin  
Administrative Law Judge

) MM DOCKET NO. 93-75

) File No. BRCT-9110011X

RECEIVED

SEP 15 1993

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

) File No. BPCT-911227KE

OPPOSITION TO SECOND MOTION TO  
ENLARGE ISSUES AGAINST GLENDALE  
BROADCASTING COMPANY

Glendale Broadcasting Company (Glendale), by its attorneys, now opposes the "Second Motion to Enlarge Issues Against Glendale Broadcasting Company" filed by Trinity Broadcasting of Florida, Inc. (TBF) on August 27, 1993.

TBF accuses Raystay Company (Raystay) of misrepresenting its expenses in connection with the sale of LPTV station W23AY

No. of Copies rec'd 046  
List A B C D E

at York, PA.<sup>1</sup> TBF's petition ignores the Review Board's admonition in Scott & Davis Enterprises, Inc., 88 FCC 2d 1090, 1099, 50 RR 2d 1251, 1258 (Rev. Bd. 1982):

Misrepresentation and lack of candor charges are very grave matters. They ought not be bandied about. The duty to come forward with a prima facie showing of deception is particularly strong where a misrepresentation issue is sought.

Here, TBF has utterly failed to show that Raystay's certification of expenses was incorrect or false. It is merely trying to impose its own idiosyncratic belief as to how expenses may be allocated among several applications. Its belief is not supported by any policy, rule, or precedent. As was true with most of the misrepresentation allegations TBF made in its first petition, TBF has failed to show the existence of either a false statement or an intent to deceive the Commission. Its second petition must be summarily denied.

On July 24, 1990, Raystay received five construction permits for LPTV stations. Two of the permits for Lebanon, PA specified the same transmitter site. Two other permits for

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<sup>1</sup> When Raystay originally obtained this permit, the permit specified Channel 56 with the community of license as Red Lion, PA and call sign W56AW. The permit was subsequently modified to specify Channel 23 at York, PA with call sign W23AY. For ease of reference, the station will be referred to as W23AY and the permit will be referenced as the York permit.

Lancaster, PA specified a second site. The fifth permit was the York permit.

The four permits specifying Lancaster or Lebanon as the community of license were turned in to the Commission for cancellation by Raystay on March 23, 1993. See the letter from John J. Schauble to the Commission dated March 23, 1993 submitted as Attachment 1 to this opposition. As noted by TBF, the York permit was sold to GroSat Broadcasting, Inc. for \$10,000. The assignment application was filed on January 14, 1992 and granted on March 2, 1992. See TBF Motion, Attachments 2 and 3.

The legal fees incurred by Raystay in connection with the five LPTV construction permits totalled \$15,397.03. See the declaration of Morton L. Berfield submitted as Attachment 2 to this opposition. The fees of Robert L. Hoover for preparing the engineering fees of the five applications totalled \$7,275. TBF Motion, Attachment 5. Those expenses, by themselves, far exceed the \$10,000 that Raystay received for the York permit.

An important fact not noted by TBF is that the legal work involved with respect to all five LPTV applications was, for the most part, the same work. As noted in the Berfield declaration, the non-engineering portions of all five applications are identical except for the channel number, community, and site availability certifications. The three

non-engineering exhibits in each application are identical. The information needed to prepare the five applications was, for the most part, the same information. Copies of the original applications are submitted as Attachment 3 to this opposition.

The work involved in preparing subsequent filings concerning the five LPTV applications was also largely identical. Each application was amended on July 6, 1989 to report a decision involving George Gardner. All five amendments were identical except for the channel number, community name, and file number of the application in question. Copies of the five amendments are submitted as Attachment 4 to this opposition. On March 14, 1990 and May 7, 1990, Raystay submitted declarations in support of its showing that George Gardner had the qualifications necessary to grant the five applications. Copies of the March 14 and May 7 submissions are enclosed as Attachments 5 and 6, respectively. With respect to all five applications, both sets of submissions were identical except for the file number and community name on each letter. To the best of Mr. Berfield's recollection, any other work relating to the five LPTV construction permits related to all of the permits in general instead of any one specific permit. See Attachment 2.

If Cohen and Berfield had performed the same services with respect to only one application, the charges would have

been at least seventy-five to eighty percent of the \$15,397.03 charged for the five applications. See Attachment 2.

Seventy-five percent of \$15,397.03 is \$11,547.77, or more than the \$10,000 Raystay received from GroSat for the York permit.

TBF's petition and this opposition raise the legal question of how an applicant may allocate costs between applications when the costs were incurred with respect to more than one application. An essential premise of TBF's theory is that the only permissible way of allocating these costs is on a strict pro rata basis: i.e., if there were five applications, only one-fifth of the costs could be allocated to each application. Its argument, however, is unsupported by citation to any rule, policy, or precedent. Nothing in Section 73.3597 of the Commission's rules limits the means by which expenses common to multiple applications may be allocated. Nothing in the report and order adopting the rule that became Section 73.3597(c)(2) discusses any limitations on the allocations of common costs between applications. In the Matter of Assignment and Transfer of Construction Permits for New Broadcast Stations, 16 FCC 2d 789, 15 RR 2d 1568 (1969). So long as the expenses were attributable to the "preparing, filing, and advocating the grant of the construction permit for the station, and for other steps reasonably necessary toward placing the station in operation", the reimbursement of these expenses to Raystay was proper.

As TBF notes, Raystay allocated one-half of the total legal fees and one-third of the total engineering fees to the York permit. Such an allocation was inherently reasonable. With respect to legal fees, up to seventy-five to eighty percent of the legal fees could have been allocated to the York permit because the fees for performing the work for just that one application would have been seventy-five to eighty percent of the fees charged for the five applications. See Attachment 2. With respect to the engineering costs, it was reasonable to allocate one-third of the engineering costs to the York permit because the York site was only one of the three sites involved. For the two Lebanon applications (and the two Lancaster applications), the maps and sketches were nearly identical. The York application required a third set of maps and sketches. Moreover, it is apparent that much of Mr. Hoover's research concerning environmental impact and RF radiation related to all five applications. See Attachment 2. It was therefore reasonable and proper for David Gardner to certify that one-half of the total legal fees and one-third of the total engineering fees were incurred in connection with the York permit. The certification of expenses was therefore true and correct and not a misrepresentation.

Glendale is not arguing that Raystay could have recovered one-half of the total legal fees for each permit if it had sold all five permits. Clearly, if any of the other permits

had been sold, Raystay would have had to claim a much lower amount of expenses for legal fees incurred prior to November 7, 1991.<sup>2</sup> The total reimbursement that Raystay could have received for legal fees incurred prior to November 7, 1991 would have been \$15,397.03. Similarly, the total reimbursement Raystay could have received for engineering expenses if it had sold all five permits would have been \$7,275.

Since most of the work done in connection with the LPTV applications related to all five applications, it was perfectly proper for Raystay to allocate one-half of the total legal fees and one-third of the total engineering fees to the York permit. The certification of expenses was therefore true and correct and not a misrepresentation. The \$10,000 Raystay received did not exceed the expenses incurred in connection with the York permit, and Section 73.3597(c)(2) of the Commission's rules was not violated. Even if there was a technical rule violation, no issue would be warranted<sup>3</sup>

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<sup>2</sup> To the extent legal fees were incurred for services performed after November 7, 1991 that related to one or more of the Lancaster or Lebanon permits, Raystay could have also received reimbursement for such expenses.

<sup>3</sup> The only issue requested by TBF is a misrepresentation/lack of candor issue. TBF does not argue that a technical violation of Section 73.3597(c)(2) would be disqualifying as to Glendale.

because Raystay did not make a profit, and it acted in good faith in an area where there was no binding precedent.

The two cases primarily relied upon by TBF are not applicable. In West Jersey Broadcasting Co., 90 FCC 2d 363, 374-375, 51 RR 2d 1243, 1251 (Rev. Bd. 1982), it was undisputed that the applicant had made a secret payment of \$25,000 over and above expenses to its dismissing competition, and the applicant then invented a patent lie that the payment was an investment in a cable television franchise. In this case, there is no doubt that Raystay had far more than \$10,000 in expenses. The only question is whether these expenses could properly be allocated to the York permit. In Jimmie H. Howell, 65 FCC 2d 516, 40 RR 2d 1649 (Rev. Bd. 1977), the applicant had claimed to have incurred legal fees and then refused to pay those fees to his lawyer. No such facts have been presented here.

A misrepresentation is a false statement of fact made with an intent to deceive the Commission. Fox River Broadcasting, Inc., 93 FCC 2d 127, 129, 53 RR 2d 44, 46 (1983). TBF has utterly failed to show the existence of either a false statement or of any intent to deceive on Raystay's part.<sup>4</sup>

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<sup>4</sup> Although the W23AY assignment application was signed by Lee H. Sandifer, Raystay's Vice President, not George Gardner, TBF suggests that George Gardner had to have reviewed the application before it was filed. TBF Motion, P. 9. Neither of the statements referenced by TBF competently



Accordingly, Glendale asks the Presiding Judge to deny the "Second Motion to Enlarge Issues Against Glendale Broadcasting Company."

Respectfully submitted,

GLENDALE BROADCASTING COMPANY

By John J. Schauble  
Lewis I. Cohen  
John J. Schauble

Cohen and Berfield, P.C.  
1129 20th Street, N.W., # 507  
Washington, D.C. 20036  
(202) 466-8565

Its Attorneys

Date: September 15, 1993

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demonstrate that George Gardner knew of the statements in dispute. Since the statements were true, however, this point is immaterial.



ATTACHMENT 1

2-6-14  
**COPY**

LAW OFFICES

**COHEN AND BERFIELD, P.C.**

BOARD OF TRADE BUILDING

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JOHN J. SCHAUBLE\*

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(202) 785-0934

**RECEIVED**

**MAR 23 1993**

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

March 23, 1993

Ms. Donna R. Searcy  
Secretary  
Federal Communications Commission  
1919 M Street, NW  
Washington, DC 20554

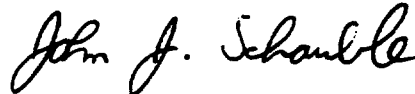
Dear Ms. Searcy:

This letter is written on behalf of Raystay Co. (Raystay), permittee of low-power television stations W23AW, Lancaster, PA; W31AX, Lancaster, PA; W38BE, Lebanon, PA; and W55BP, Lebanon, PA.

The aforementioned construction permits expire this date. Raystay has decided not to seek extensions of these permits or to take any further action with respect to those permits. Accordingly, the Commission may cancel these permits and delete the call signs from its records.

Should there be any questions concerning this matter, kindly communicate directly with this office.

Regards,



John J. Schauble



## ATTACHMENT 2

### DECLARATION

Morton L. Berfield, under penalty of perjury, declares that the following is true and correct to the best of his knowledge:

I am the President and a principal of Cohen and Berfield, P.C., which represents both Raystay Company and Glendale Broadcasting Company before the Federal Communications Commission.

I am the author of a November 7, 1991 letter from myself to David A. Gardner concerning fees and expenses incurred by Raystay Company in connection with the five LPTV construction permits it owned at that time. Two of the construction permits were for Lancaster, PA, and two other permits were for Lebanon, PA. The fifth permit originally specified Channel 56 with Red Lion, PA as the community of license. That permit was modified to specify York, PA as the community of license with call sign W23AY. As noted in the letter, the total legal fees paid by Raystay to Cohen and Berfield in connection with these authorizations was \$15,397.03.

Sections 73.3597(c)(2) and 74.780 of the Commission's rules limit payments that can be made to the seller of an unbuilt LPTV construction permit to the seller's legitimate and prudent expenses incurred "for preparing, filing, and advocating the grant of the construction permit for the station, and for other steps reasonably necessary toward

placing the station in operation." I have reviewed the "Certification of Expenses" signed by David A. Gardner on January 6, 1992 in connection with the application to assign LPTV construction permit W23AY from Raystay Company to GroSat Broadcasting, Inc. That certification lists \$7,698.00 as the amount of Cohen and Berfield legal fees incurred in connection with the W23AY permit. The \$7,698.00 figure is almost exactly one-half of total fees of \$15,397.03 charged by Cohen and Berfield in connection with the five LPTV construction permits.

It was entirely proper and reasonable to list \$7,698 of the total legal fees charged as legal fees incurred and paid in connection with the W23AY permit that was sold. Indeed, seventy-five to eighty percent of the total legal fees charged could have been attributed to any one of the five permits. For the most part, the work relating to any one of the LPTV applications or construction permits also related to each of the other permits. The original application for the five LPTV construction permits were filed on March 9, 1989. The non-engineering portions of all five applications are identical except for information relating to channel number, community, and site availability certifications. The three non-engineering exhibits in each application are identical. The information needed to prepare the five applications was, for the most part, the same information.

On July 6, 1989 amendments of all five applications were filed reporting a decision involving George Gardner. All five amendments are identical except for the channel number, community name and file number of the application in question.

On March 14, 1990, Raystay submitted a series of declarations in support of its showing that it possessed the qualifications necessary to obtain a grant of the five LPTV construction permit applications. The same declarations were used with respect to all five applications. The five submissions made to the Commission were identical except for the file number and community name on each cover letter.

On May 7, 1990, a supplemental declaration of George Gardner was filed to supplement the March 14 showing. The same declaration was submitted with respect to all five applications. Again, the five submissions were identical except for the file number and community name on each cover letter.

To the best of my recollection, any other work that was performed with respect to the five LPTV construction permits prior to November 7, 1991 would have been general work relating to all of the permits instead of any one specific permit.

If Raystay had only filed one LPTV application instead of five, and if Cohen and Berfield had had to perform the same services for that one application, the charges for such

services would have been at least seventy-five to eighty percent of the \$15,397.03 in fees charged for the five applications. I am unaware of any Commission rule or policy that when services relate to more than one application, charges for services relating to these applications must be apportioned on a strict, pro rata basis. It was reasonable and proper for Raystay to allocate one-half of the total legal fees to W23AY.

The other four LPTV construction permits (two for Lancaster, PA, two for Lebanon, PA) were not sold but were turned in for cancellation by Raystay on March 23, 1993. If these permits had been sold, the aggregate total compensation Raystay could have received for legal fees could not have exceeded \$15,397.03. The \$10,000.00 that Raystay received for the sale of W23AY was less than the amount of legal fees that could have been allocated to that permit (\$11,547.77, or 75% of \$15,397.03). Raystay therefore did not make an illegal profit from the sale of W23AY.

With respect to the engineering fees of Robert Hoover, Mr. Hoover prepared the engineering portion of all five applications. According to the invoice attached to the motion to enlarge issues, Mr. Hoover's total charges for preparing these five applications was \$7,275. The "Certification of Expenses" signed by David Gardner allocated one-third of that



total, or \$2,425, to W23AY. In my opinion, such an allocation was reasonable and proper. While five applications were filed, only three transmitter sites were involved. The two Lancaster applications specified the same site, and the two Lebanon applications specified the same site. The application for what became W23AY specified a third site. Much of the work performed by Mr. Hoover was site specific. For instance, the topographic maps, area maps and vertical plan sketches for the two Lebanon applications are nearly identical. The same can be said for the two Lancaster applications. The application for what became W23AY required maps and sketches that were only used for that application. Furthermore, it appears from the environmental and RF radiation statements prepared by Mr. Hoover that much of the research he performed related to all five applications. For these reasons, it was reasonable and proper to allocate one-third of Mr. Hoover's charges to the W23AY permit. Again, if the other construction permits had been sold, the total compensation Raystay could have received for Mr. Hoover's engineering expenses would have been \$7,275.

The \$10,000 that Raystay received for the W23AY permit did not exceed its legitimate and prudent expenses that were paid and that could be legitimately allocated to that permit. The listing of expenses in the "Certification of Expenses"

contained in the W23AY assignment application was a reasonable and proper listing of such expenses.

9-14-93

Date

Morton L. Berfield

Morton L. Berfield



A-6-2x  
COPY

LAW OFFICES

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TELECOPIER  
(202) 785-0934

March 9, 1989

HAND DELIVERED

Federal Communications Commission  
Low Power Television Window Filing  
Strip Commerce Center  
28th and Liberty Avenue  
Pittsburgh, PA 15222

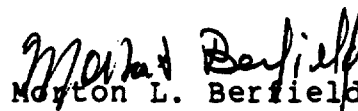
Dear Gentlemen:

On behalf of Raystay Company, there is submitted herewith on FCC Form 346 an original and two copies of an application for a new low power television station to operate on Channel 38 at Lebanon, PA.

A check in the amount of \$375 for the filing fee is attached hereto.

Should there be any questions concerning this matter, kindly communicate directly with this office.

Very truly yours,

  
Morton L. Berfield

Enclosures

APPLICATION FOR AUTHORITY TO CONSTRUCT OR  
MAKE CHANGES IN A LOW POWER TV, TV TRANSLATOR OR TV BOOSTER STATION  
(Carefully read instructions before filling out form - RETURN ONLY FORM TO FCC)

For Commission Fee Use Only

**RECEIVED**  
**MAR 03 1989**  
**FCC**

FEE NO:

FEE TYPE:

FEE AMT:

ID SEQ:

For Applicant Fee Use Only

Is a fee submitted with this application?

☒ Yes ☐ No

If No, indicate reason therefor (check one box):

☐ Nonfeeable application

Fee Exempt (See 47 C.F.R. Section 1.1112)

☐ Noncommercial educational licensee

☐ Governmental entity

For Commission Use Only

File No.

SECTION I - GENERAL INFORMATION

1. Name of Applicant  Raystay Company	Address P. O. Box 38		
	City Carlisle	State PA	Zip Code 17013
	Telephone No. (include area code) (717) 245-0040		

2. This application is for: (check one box)

☒ Low Power Television

☐ TV Translator

☐ TV Booster

(a) Proposed Channel No. 38	(b) Community to be served: City Lebanon State PA	
--------------------------------	--	--

(c) Check one of the following boxes:

☒ Application for NEW station

☐ MAJOR change in licensed facilities; call sign: \_\_\_\_\_

☐ MINOR change in licensed facilities; call sign: \_\_\_\_\_

☐ MAJOR modification of construction permit; call sign: \_\_\_\_\_

File No. of Construction Permit: \_\_\_\_\_

☐ MINOR modification of construction permit; call sign: \_\_\_\_\_

File No. of Construction Permit: \_\_\_\_\_

☐ AMENDMENT to pending application; Application file number: \_\_\_\_\_

NOTE: It is not necessary to use this form to amend a previously filed application. Should you do so, however, please submit only Sections I and VII and those other portions of the form that contain the amended information.

## SECTION III - LEGAL QUALIFICATIONS

NOTE: Applicants for new stations only:

1. Applicant is (check one of the following):

- |                                     |  |   |
|-------------------------------------|--|---|
| <input type="checkbox"/> Individual | <input type="checkbox"/> General Partnership | <input checked="" type="checkbox"/> Corporation     |
| <input type="checkbox"/> Other      | <input type="checkbox"/> Limited Partnership | <input type="checkbox"/> Unincorporated Association |

(a) If the applicant is a legal entity other than an individual, partnership, corporation or unincorporated association, describe in an Exhibit the nature of the applicant.

Exhibit No.  
N. A.

(b) For LPTV and TV translator applicants only:

If the applicant is an individual, submit as an Exhibit the applicant's name, address and telephone number (including area code).

Exhibit No.  
N. A.

If the applicant is a partnership, whether general or limited, submitted as an Exhibit the names, addresses, and telephone numbers (including area code) of all general and limited partners (including silent partners), and the nature and percentage of the ownership interest of each partner.

Exhibit No.  
N. A.

If the applicant is a corporation or an unincorporated association, submit as an Exhibit the names, addresses and telephone numbers (including area code) of all officers, directors and other members of the governing board of the corporation or association and the nature and the percentage of their ownership interests in the applicant (including stockholders with interests of 1% or greater).

Exhibit No.  
1

2. For LPTV and TV translator applicants only, submit as an Exhibit a list of all other new applications filed during the same window period as this application in which the applicant or any principal of the applicant has any interest. Include the percentage of that interest for each listed application, as well as the other applicant's name (if different) and the channel number and location of the proposed station.

Exhibit No.  
2

NOTE: No more than five (5) applications for new low power TV or TV translator stations may be filed during a single window period by any applicant, or by any individual or entity having an interest of 1% or more in applications filed in the same window period. This limit does not apply to minor or major change applications or to TV booster applications.

### CITIZENSHIP AND OTHER STATUTORY REQUIREMENTS

3. (a) Is the applicant in compliance with the provisions of Section 310 of the Communications Act of 1934, as amended, relating to interests of aliens and foreign governments?

☒ Yes ☐ No

(b) Will any funds, credit, or other financial assistance for the construction, purchase or operation of the station(s) be provided by aliens, foreign entities, domestic entities controlled by aliens, or their agents?

☐ Yes ☒ No

If Yes, provide particulars as an Exhibit.

Exhibit No.

4. (a) Has an adverse finding been made, or an adverse final action taken by any court or administrative body as to the applicant or any party to this application in a civil or criminal proceeding brought under the provisions of any law related to the following: any felony; broadcast-related antitrust or unfair competition; criminal fraud or fraud before another governmental unit; or discrimination?

☐ Yes ☒ No

(b) Is there now pending in any court or administrative body any proceeding involving any of the matters referred to in 4(a)?

☐ Yes ☒ No

If the answer to 4(a) or 4(b) is Yes, attach as an Exhibit a full disclosure concerning the persons and matters involved, including an identification of the court or administrative body and the proceeding (by dates and file numbers), a statement of the facts upon which the proceeding was based or the nature of the offense alleged or committed, and a description of the current status or disposition of the matter.

Exhibit No.

SECTION III (Page 2)

5. Has the applicant or any other party to this application had any interest in:

(a) a broadcast application which has been dismissed with prejudice by the Commission?

☐ Yes ☒ No

(b) a broadcast application which has been denied by the Commission?

☐ Yes ☒ No

(c) a broadcast station, the license for which has been revoked?

☐ Yes ☒ No

(d) a broadcast application in any Commission proceeding which left unresolved character issues against the applicant?

☒ Yes ☐ No

If the answer to any of the questions in 5 is Yes, state in an Exhibit the following:

(i) Name of party having interest;

(ii) Nature of interest or connection, giving dates;

(iii) Call letters of stations or file number of application or docket number;

(iv) Location.

Exhibit No.

3

MULTIPLE APPLICATIONS

6. The applicant certifies that there is no other application pending that would be directly mutually exclusive with this application in which this applicant has an interest of one percent or more or in which any party to this application is an officer, director, or has an interest of one percent or more, direct or indirect.

☒ Yes ☐ No

If No, this application cannot be accepted for filing.

REAL PARTY IN INTEREST

7. The applicant certifies that no agreement, either explicit or implicit, has been entered into for the purposes of transferring or assigning to another party, any station construction permit or license or interest therein that is awarded as a result of a random selection or lottery.

☒ Yes ☐ No

If No, this application cannot be accepted for filing.

SECTION IV - PROGRAM SERVICE STATEMENT

NOTE: For Low Power Television applicants only:

Low Power Television stations must offer a broadcast program service; a non-program broadcast service will not be permitted. Therefore, briefly describe below, in narrative form, your planned programming service.

The applicant proposes to broadcast community program service, including entertainment, feature, informational, movies, syndicated and sports programming.

REMINDER: Do not complete the following without reading carefully the definitions and other information set out in the foregoing pages.

### CERTIFICATION OF PREFERENCES

#### MINORITY

1. The applicant certifies that it is entitled to and seeks to claim minority preference.

☐ Yes ☒ No

If yes, complete the following:

Name	Address	Percentage interest in the applicant	Minority Group
------	---------	---	----------------

#### DIVERSIFICATION PREFERENCE

2. The applicant certifies that it and/or its owners have no interest, in the aggregate, exceeding 50 percent in any media of mass communications.

☐ Yes ☒ No

If Yes, DO NOT respond to questions 3 and 4.

3. The applicant certifies that it and/or its owners have no interest, in the aggregate, exceeding 50 percent in more than three mass communications media facilities.

☐ Yes ☒ No

4. The applicant certifies that it and/or its owners have no interest, in the aggregate, exceeding 50 percent in a media of mass communications in the same area to be served by the proposed station.

☒ Yes ☐ No



## SECTION VI - EQUAL EMPLOYMENT OPPORTUNITY PROGRAM

1. For Low Power TV applicants, will this station employ on a full-time basis five or more persons?

☐ Yes ☒ No

If Yes, the applicant must include an EEO program called for in the separate Broadcast Equal Employment Opportunity Report (FCC Form 396-A).

## SECTION VII - CERTIFICATIONS

1. For new station and major change applicants only, the applicant certifies that it has or will comply with the public notice requirement of 47 C.F.R. Section 73.3580(g).

☒ Yes ☐ No

2. For applicants proposing translator rebroadcasts who are not the licensee of the primary station, the applicant certifies that written authority has been obtained from the licensee of the station whose programs are to be retransmitted.

☐ Yes ☐ No

Primary station proposed to be rebroadcast:

N.A.

Call Sign	City	State	Channel No.

3. The applicant certifies that it has contacted an authorized spokesperson for the owner of the rights to the proposed transmitter site and has obtained reasonable assurance that the site will be available for its use if this application is granted.

☒ Yes ☐ No

That person can be contacted at the following address and telephone number:

Name Barry L. March		Mailing Address or Identification General Manager, Quality Inn	
City Lebanon	State PA	ZIP Code 17042	Telephone No. (include area code) (717) 273-6771

The APPLICANT hereby waives any claim to the use of any particular frequency as against the regulatory power of the United States because of the previous use of the same, whether by license or otherwise, and requests an authorization in accordance with this application. (See Section 304 of the Communications Act of 1934, as amended.)

The APPLICANT acknowledges that all the statements made in this application and attached exhibits are considered material representations, and that all exhibits are a material part hereof and incorporated herein.

The APPLICANT represents that this application is not filed for the purpose of impeding, obstructing, or delaying determination on any other application with which it may be in conflict.

In accordance with 47 C.F.R. Section 1.65, the APPLICANT has a continuing obligation to advise the Commission, through amendments, or any substantial and significant changes in information furnished.

**WILLFUL FALSE STATEMENTS MADE ON THIS FORM ARE PUNISHABLE BY FINE AND IMPRISONMENT.  
U.S. CODE, TITLE 18, SECTION 1001.**

I certify that the statements in this application are true, complete and correct to the best of my knowledge and belief, and are made in good faith.

Name of Applicant Raystay Company	Signature 
Title Vice President	Date David A. Gardner March 7, 1989